



House of Representatives

General Assembly

File No. 177

January Session, 2015

Substitute House Bill No. 6800

House of Representatives, March 23, 2015

The Committee on Banking reported through REP. LESSER of the 100th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING MORTGAGE CORRESPONDENT LENDERS,
THE SMALL LOAN ACT, VIRTUAL CURRENCIES AND SECURITY
FREEZES ON CONSUMER CREDIT REPORTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-718 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) On and after January 1, 2015, no person shall act as a mortgage
4 servicer, directly or indirectly, without first obtaining a license under
5 section 36a-719 from the commissioner for its main office and each
6 branch office where such business is conducted, unless such person is
7 exempt from licensure pursuant to subsection (b) of this section.

8 (b) The following persons are exempt from mortgage servicer
9 licensing requirements: (1) Any bank, out-of-state bank, Connecticut
10 credit union, federal credit union or out-of-state credit union, provided
11 such bank or credit union is federally insured; (2) any wholly-owned
12 subsidiary of such bank or credit union; (3) any operating subsidiary

13 where each owner of such operating subsidiary is wholly owned by
14 the same such bank or credit union; [and] (4) any person licensed as a
15 mortgage lender in this state while acting as a mortgage servicer from
16 a location licensed as a main office or branch office under sections 36a-
17 485 to 36a-498f, inclusive, 36a-534a and 36a-534b, provided (A) such
18 person meets the supplemental mortgage servicer surety bond, fidelity
19 bond and errors and omissions coverage requirements under section
20 36a-719c, as amended by this act, and (B) during any period that the
21 license of the mortgage lender in this state has been suspended, such
22 exemption shall not be effective; and (5) any person licensed as a
23 mortgage correspondent lender in this state while acting as a mortgage
24 servicer with respect to any residential mortgage loan it has made and
25 during the permitted ninety-day holding period for such loan from a
26 location licensed as a main office or branch office under sections 36a-
27 485 to 36a-498f, inclusive, 36a-534a and 36a-534b, provided during any
28 period the license of the mortgage correspondent lender in this state
29 has been suspended, such exemption shall not be effective.

30 (c) The provisions of sections 36a-719e to 36a-719h, inclusive, shall
31 apply to any person, including a person exempt from licensure
32 pursuant to subsection (b) of this section, who acts as a mortgage
33 servicer in this state on or after January 1, 2015.

34 Sec. 2. Subsection (c) of section 36a-719c of the general statutes is
35 repealed and the following is substituted in lieu thereof (*Effective from*
36 *passage*):

37 (c) The fidelity bond and errors and omissions coverage required by
38 subsection (a) of this section shall name the commissioner as an
39 additional loss payee on drafts the surety issues to pay for covered
40 losses directly or indirectly incurred by mortgagors of residential
41 mortgage loans serviced by the mortgage servicer. The fidelity bond
42 shall cover losses arising from dishonest and fraudulent acts,
43 embezzlement, misplacement, forgery and similar events committed
44 by employees of the mortgage servicer. The errors and omissions
45 coverage shall cover losses arising from negligence, errors and

46 omissions by the mortgage servicer with respect to the payment of real
47 estate taxes and special assessments, hazard and flood insurance or the
48 maintenance of mortgage and guaranty insurance. The fidelity bond
49 and errors and omissions coverage shall each be in the following
50 principal amounts based on the mortgage servicer's volume of
51 servicing activity most recently reported to the commissioner:

52 (1) If the amount of the residential mortgage loans serviced is one
53 hundred million dollars or less, the principal amount shall be at least
54 three hundred thousand dollars; or

55 (2) If the amount of such loans exceeds one hundred million dollars,
56 the principal amount shall be at least three hundred thousand dollars
57 plus (A) three-twentieths of one per cent of the amount of residential
58 mortgage loans serviced greater than one hundred million dollars but
59 less than or equal to five hundred million dollars; (B) plus one-eighth
60 of one per cent of the amount of residential mortgage loans serviced
61 greater than five hundred million dollars but less than or equal to one
62 billion dollars; and (C) plus one-tenth of one per cent of the amount of
63 residential mortgage loans serviced greater than one billion dollars.

64 The fidelity bond and errors and omissions coverage may provide
65 for a deductible amount not to exceed the greater of one hundred
66 thousand dollars or five per cent of the [principal amount] face amount
67 of such bond or coverage.

68 Sec. 3. Section 36a-719d of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective from passage*):

70 (a) Each mortgage servicer licensee and person exempt from
71 licensure pursuant to subdivision (4) or (5) of subsection (b) of section
72 36a-718, as amended by this act, shall maintain adequate records of
73 each residential mortgage loan transaction at the office named in the
74 mortgage servicer or mortgage lender license, or, if requested by the
75 [Banking Commissioner] commissioner, shall make such records
76 available at such office or send such records to the commissioner by
77 registered or certified mail, return receipt requested, or by any express

78 delivery carrier that provides a dated delivery receipt, not later than
79 five business days after requested by the commissioner to do so. Upon
80 request, the commissioner may grant a licensee additional time to
81 make such records available or send them to the commissioner. Such
82 records shall provide the following information: (1) A loan history for
83 residential mortgage loans upon which payments are received or made
84 by the mortgage servicer, itemizing the amount and date of each
85 payment and the unpaid balance at all times; (2) the original or an
86 exact copy of the note, residential mortgage or other evidence of
87 indebtedness and mortgage deed; (3) the name and address of the
88 mortgage lender, mortgage correspondent lender and mortgage
89 broker, if any, involved in the residential mortgage loan transaction;
90 (4) copies of any disclosures or notifications provided to the mortgagor
91 required by state or federal law; (5) a copy of any bankruptcy plan
92 approved in a proceeding filed by the mortgagor or a co-owner of the
93 property subject to the residential mortgage loan; (6) a
94 communications log that documents all verbal communications with
95 the mortgagor or the mortgagor's representative; and (7) a copy of all
96 notices sent to the mortgagor related to any foreclosure proceeding
97 filed against the encumbered property.

98 (b) Every mortgage servicer licensee and person exempt from
99 licensure pursuant to subdivision (4) or (5) of subsection (b) of section
100 36a-718, as amended by this act, shall retain the records of each
101 residential mortgage loan serviced for not less than two years
102 following the final payment on such residential mortgage loan, or the
103 assignment of such residential mortgage loan, whichever occurs first,
104 or such longer period as may be required by any other provision of
105 law. Every mortgage servicer licensee and person exempt from
106 licensure pursuant to subdivision (4) or (5) of subsection (b) of section
107 36a-718, as amended by this act, shall keep and use in its business
108 books, accounts and records that will enable the commissioner to
109 determine whether such mortgage servicer is complying with the
110 provisions of sections 36a-715 to 36a-719l, inclusive, and with any
111 regulations adopted pursuant thereto.

112 Sec. 4. Section 36a-573 of the general statutes is repealed and the
113 following is substituted in lieu thereof (*Effective from passage*):

114 (a) No person, except as authorized by the provisions of sections
115 36a-555 to 36a-573, inclusive, as amended by this act, shall, directly or
116 indirectly, charge, contract for or receive any interest, charge or
117 consideration greater than twelve per cent per annum upon the loan,
118 use or forbearance of money or credit of the amount or value of (1) five
119 thousand dollars or less for any such transaction entered into before
120 October 1, 1997, and (2) fifteen thousand dollars or less for any such
121 transaction entered into on and after October 1, 1997. The provisions of
122 this section shall apply to any person who, as security for any such
123 loan, use or forbearance of money or credit, makes a pretended
124 purchase of property from any person and permits the owner or
125 pledgor to retain the possession thereof, or who, by any device or
126 pretense of charging for the person's services or otherwise, seeks to
127 obtain a greater compensation than twelve per cent per annum. No
128 loan for which a greater rate of interest or charge than is allowed by
129 the provisions of sections 36a-555 to 36a-573, inclusive, as amended by
130 this act, has been contracted for or received, wherever made, shall be
131 enforced in this state, and any person in any way participating therein
132 in this state shall be subject to the provisions of said sections, provided,
133 a loan lawfully made after June 5, 1986, in compliance with a validly
134 enacted licensed loan law of another state to a borrower who was not,
135 at the time of the making of such loan, a resident of Connecticut but
136 who has become a resident of Connecticut, may be acquired by a
137 licensee and its interest provision shall be enforced in accordance with
138 its terms.

139 (b) The provisions of subsection (a) of this section shall apply to any
140 loan made or renewed in this state if the loan is made to a borrower
141 who resides in or maintains a domicile in this state and such borrower
142 (1) negotiates or agrees to the terms of the loan in person, by mail, by
143 telephone or via the Internet while physically present in this state; (2)
144 enters into or executes a loan agreement with the lender in person, by
145 mail, by telephone or via the Internet while physically present in this

146 state; or (3) makes a payment of the loan in this state. As used in this
147 subsection, "payment of the loan" includes a debit on an account the
148 borrower holds in a branch of a financial institution or the use of a
149 negotiable instrument drawn on an account at a financial institution,
150 and "financial institution" means any bank or credit union chartered or
151 licensed under the laws of this state, any other state or the United
152 States and having its main office or a branch office in this state.

153 (c) For transactions subject to the provisions of subsection (a) of this
154 section, if any interest, consideration or charges in excess of those
155 permitted are charged, contracted for or received, the contract of loan,
156 use or forbearance of money or credit shall be void and no person shall
157 have the right to collect or receive any principal, interest, charge or
158 other consideration.

159 (d) No person shall, directly or indirectly, assist or aid and abet any
160 person in conduct prohibited by sections 36a-555 to 36a-573, inclusive,
161 as amended by this act.

162 ~~[(c)]~~ (e) Whenever it appears to the commissioner that any person
163 has violated the provisions of [subsection (a) of] this section or offered
164 a loan that violates the provisions of [subsection (a) of] this section, the
165 commissioner may investigate, take administrative action or assess
166 civil penalties and restitution in accordance with the provisions of
167 sections 36a-50 and 36a-52.

168 Sec. 5. Section 36a-596 of the general statutes is repealed and the
169 following is substituted in lieu thereof (*Effective October 1, 2015*):

170 As used in sections 36a-595 to 36a-612, inclusive:

171 (1) "Authorized delegate" means a person designated by a person
172 licensed pursuant to sections 36a-595 to 36a-612, inclusive, to provide
173 money transmission services on behalf of such licensed person.

174 (2) "Electronic payment instrument" means a card or other tangible
175 object for the transmission of money or monetary value or payment of
176 money which contains a microprocessor chip, magnetic stripe, or other

177 means for the storage of information, that is prefunded and for which
178 the value is decremented upon each use, but does not include a card or
179 other tangible object that is redeemable by the issuer in the issuer's
180 goods or services.

181 (3) "Holder" means a person, other than a purchaser, who is either in
182 possession of a payment instrument and is the named payee thereon or
183 in possession of a payment instrument issued or endorsed to such
184 person or bearer or in blank. "Holder" does not include any person
185 who is in possession of a lost, stolen or forged payment instrument.

186 (4) "Licensee" means any person licensed or required to be licensed
187 pursuant to sections 36a-595 to 36a-612, inclusive.

188 (5) "Monetary value" means a medium of exchange, whether or not
189 redeemable in money.

190 (6) "Money transmission" means engaging in the business of issuing
191 or selling payment instruments or stored value, receiving money or
192 monetary value for current or future transmission or the business of
193 transmitting money or monetary value within the United States or to
194 locations outside the United States by any and all means including, but
195 not limited to, payment instrument, wire, facsimile or electronic
196 transfer.

197 (7) "Outstanding" means (A) in the case of a payment instrument or
198 stored value, that: (i) It is sold or issued in the United States; (ii) a
199 report of it has been received by a licensee from its authorized
200 delegates; and (iii) it has not yet been paid by the issuer, and (B) for all
201 other money transmissions, the value reported to the licensee for
202 which the licensee or any authorized delegate has received money or
203 its equivalent value from the customer for transmission, but has not
204 yet completed the money transmission by delivering the money or
205 monetary value to the person designated by the customer.

206 (8) "Payment instrument" means a check, draft, money order,
207 travelers check or electronic payment instrument that evidences either

208 an obligation for the transmission of money or monetary value or
209 payment of money, or the purchase or the deposit of funds for the
210 purchase of such check, draft, money order, travelers check or
211 electronic payment instrument.

212 (9) "Permissible investment" means: (A) Cash in United States
213 currency; (B) time deposits, as defined in section 36a-2, or other debt
214 instruments of a bank; (C) bills of exchange or bankers acceptances
215 which are eligible for purchase by member banks of the Federal
216 Reserve System; (D) commercial paper of prime quality; (E) interest-
217 bearing bills, notes, bonds, debentures or other obligations issued or
218 guaranteed by: (i) The United States or any of its agencies or
219 instrumentalities, or (ii) any state, or any agency, instrumentality,
220 political subdivision, school district or legally constituted authority of
221 any state if such investment is of prime quality; (F) interest-bearing
222 bills or notes, or bonds, debentures or preferred stocks, traded on any
223 national securities exchange or on a national over-the-counter market,
224 if such debt or equity investments are of prime quality; (G) receivables
225 due from authorized delegates consisting of the proceeds of the sale of
226 payment instruments which are not past due or doubtful of collection;
227 (H) gold; and (I) any other investments approved by the
228 commissioner. Notwithstanding the provisions of this subdivision, if
229 the commissioner at any time finds that an investment of a licensee is
230 unsatisfactory for investment purposes, the investment shall not
231 qualify as a permissible investment.

232 (10) "Prime quality" of an investment means that it is within the top
233 four rating categories in any rating service recognized by the
234 commissioner unless the commissioner determines for any licensee
235 that only those investments in the top three rating categories qualify as
236 "prime quality".

237 (11) "Purchaser" means a person who buys or has bought a payment
238 instrument or who has given money or monetary value for current or
239 future transmission.

240 (12) "Stored value" means monetary value that is evidenced by an

241 electronic record. For the purposes of this subdivision, "electronic
242 record" means information that is stored in an electronic medium and
243 is retrievable in perceivable form.

244 (13) "Travelers check" means a payment instrument for the payment
245 of money that contains a provision for a specimen signature of the
246 purchaser to be completed at the time of a purchase of the instrument
247 and a provision for a countersignature of the purchaser to be
248 completed at the time of negotiation.

249 (14) "Virtual currency" means any type of digital unit that is used as
250 a medium of exchange or a form of digitally stored value or that is
251 incorporated into payment system technology. Virtual currency shall
252 be construed to include digital units of exchange that (A) have a
253 centralized repository or administrator; (B) are decentralized and have
254 no centralized repository or administrator; or (C) may be created or
255 obtained by computing or manufacturing effort. Virtual currency shall
256 not be construed to include digital units that are used (i) solely within
257 online gaming platforms with no market or application outside such
258 gaming platforms, or (ii) exclusively as part of a consumer affinity or
259 rewards program, and can be applied solely as payment for purchases
260 with the issuer or other designated merchants, but cannot be converted
261 into or redeemed for fiat currency.

262 Sec. 6. Subsection (a) of section 36a-598 of the general statutes is
263 repealed and the following is substituted in lieu thereof (*Effective*
264 *October 1, 2015*):

265 (a) Each application for an initial or renewal license required under
266 sections 36a-595 to 36a-612, inclusive, shall be made in writing and
267 under oath to the commissioner in such form as the commissioner may
268 prescribe. The application shall include:

269 (1) The exact name of the applicant and, if incorporated, the date of
270 incorporation and the state where incorporated;

271 (2) The complete address of the principal office from which the

272 business is to be conducted and of the office where the books and
273 records of the applicant are to be maintained;

274 (3) The complete name and address of each of the applicant's
275 locations and authorized delegates, if any, through which the applicant
276 intends to engage in the business of money transmission in this state;

277 (4) The name, title, address and telephone number of the person to
278 whom notice of the commissioner's approval or disapproval of the
279 application shall be sent and to whom any inquiries by the
280 commissioner concerning the application shall be directed;

281 (5) The name and residence address of the individual, if the
282 applicant is an individual; the partners, if the applicant is a
283 partnership; the directors, trustees, principal officers, and any
284 shareholder owning ten per cent or more of each class of its securities,
285 if the applicant is a corporation or association; or the members, if the
286 applicant is a limited liability company;

287 (6) (A) A copy of the applicant's audited financial statements for the
288 most recent fiscal year, (B) if the applicant is a wholly-owned
289 subsidiary of another corporation, (i) the most recent audited
290 consolidated annual financial statements of the parent corporation or
291 the applicant's most recent audited consolidated annual financial
292 statement, and (ii) the most recent audited unconsolidated financial
293 statement of the applicant, including its balance sheet and receipts and
294 disbursements for the preceding year, (C) if the applicant is publicly
295 traded, a copy of the most recent 10-K report that such applicant filed
296 with the Securities Exchange Commission or, if the applicant is a
297 wholly-owned subsidiary of a publicly traded company, a copy of the
298 parent company's most recent 10-K report that was filed with the
299 Securities and Exchange Commission, and (D) if the applicant or
300 parent company of a wholly-owned subsidiary applicant is publicly
301 traded on a foreign exchange, a copy of documentation similar to the
302 report filed pursuant to subparagraph (C) of this subdivision that was
303 filed with the applicable securities regulator;

304 (7) A list of the applicant's permissible investments, the book and
305 market values of such investments, and the dollar amount of the
306 applicant's aggregate outstanding money transmissions (A) as of the
307 date of the financial statement filed in accordance with subdivision (6)
308 of this subsection; and (B) as of a date no earlier than thirty business
309 days prior to the filing of the application;

310 (8) The history of material litigation for the five-year period prior to
311 the date of the application of the individual, if the applicant is an
312 individual; the partners, if the applicant is a partnership; the directors,
313 trustees, principal officers and any shareholder owning ten per cent or
314 more of each class of its securities, if the applicant is a corporation or
315 association; or the members, if the applicant is a limited liability
316 company, and sufficient information pertaining to the history of
317 material litigation, in a form acceptable to the commissioner, on such
318 individual or the partners, directors, trustees, principal officers,
319 members and any shareholder owning ten per cent or more of each
320 class of the applicant's securities. For purposes of this section, "material
321 litigation" means any litigation that, according to generally accepted
322 accounting principles, is deemed significant to a person's financial
323 health and that such person is required to reference in an annual
324 audited financial statement, a report to shareholders or a similar
325 document;

326 (9) (A) The history of criminal convictions of the individual, if the
327 applicant is an individual; the partners, if the applicant is a
328 partnership; the directors, trustees, principal officers and any
329 shareholder owning ten per cent or more of each class of its securities
330 if the applicant is a corporation or association; or the members, if the
331 applicant is a limited liability company, and (B) sufficient information
332 pertaining to the history of criminal convictions, in a form acceptable
333 to the commissioner, on such individual or the partners, directors,
334 trustees, principal officers, members and any shareholder owning ten
335 per cent or more of each class of the applicant's securities;

336 (10) (A) The surety bond required by subsection (a) of section 36a-

337 602, as amended by this act, if applicable;

338 (B) A list of the investments maintained in accordance with
339 subsection (d) of section 36a-602, if applicable, and the book and
340 market values of any such investments (i) as of the date of the financial
341 statement filed in accordance with subdivision (6) of this subsection;
342 and (ii) as of a date no earlier than thirty business days prior to the
343 filing of the application;

344 (11) A statement describing the type of money transmission
345 business that will be conducted by the applicant in this state and
346 whether such money transmission will include the transmission of
347 monetary value in the form of virtual currency;

348 (12) The name and address of any financial institution used by the
349 applicant for its money transmission business in this state;

350 (13) For each authorized delegate, a sample of the contract
351 evidencing the proposed arrangement between the applicant and the
352 authorized delegate; and

353 (14) Any other information the commissioner may require.

354 Sec. 7. Section 36a-600 of the general statutes is repealed and the
355 following is substituted in lieu thereof (*Effective October 1, 2015*):

356 (a) Upon the filing of an application for an initial license, and the
357 payment of the fees for investigation and license, the commissioner
358 shall investigate the financial condition and responsibility, financial
359 and business experience, character and general fitness of the applicant.
360 The commissioner may issue a license if the commissioner finds that:

361 (1) The applicant's financial condition is sound;

362 (2) The applicant's business will be conducted honestly, fairly,
363 equitably, carefully and efficiently within the purposes and intent of
364 sections 36a-595 to 36a-612, inclusive, and in a manner commanding
365 the confidence and trust of the community;

366 (3) (A) If the applicant is an individual, such individual is in all
367 respects properly qualified and of good character, (B) if the applicant is
368 a partnership, each partner is in all respects properly qualified and of
369 good character, (C) if the applicant is a corporation or association, each
370 president, chairperson of the executive committee, senior officer
371 responsible for the corporation's business, chief financial officer or any
372 other person who performs similar functions as determined by the
373 commissioner, director, trustee and each shareholder owning ten per
374 cent or more of each class of the securities of such corporation is in all
375 respects properly qualified and of good character, or (D) if the
376 applicant is a limited liability company, each member is in all respects
377 properly qualified and of good character;

378 (4) The applicant is in compliance with the provisions of sections
379 36a-602 to 36a-604, inclusive, as amended by this act;

380 (5) No person on behalf of the applicant knowingly has made any
381 incorrect statement of a material fact in the application, or in any
382 report or statement made pursuant to sections 36a-595 to 36a-612,
383 inclusive;

384 (6) No person on behalf of the applicant knowingly has omitted to
385 state any material fact necessary to give the commissioner any
386 information lawfully required by the commissioner; and

387 (7) The applicant has paid the investigation fee and license fee
388 required under section 36a-599.

389 (b) The commissioner may deny an application if the commissioner
390 finds that the applicant or any of its partners, directors, trustees,
391 principal officers or shareholders owning ten per cent or more of the
392 shares of the applicant or members (1) are listed on the specially
393 designated nationals and blocked persons list prepared by the United
394 States Department of the Treasury, or (2) have been convicted of any
395 misdemeanor involving any aspect of the money transmission
396 business or any felony. Any denial of an application by the
397 commissioner shall, when applicable, be subject to the provisions of

398 section 46a-80.

399 (c) Notwithstanding the provisions of this section, the commissioner
400 may deny any application of a person who will or may engage in the
401 business of transmitting monetary value in the form of virtual
402 currency if, in the commissioner's discretion, the issuance of such a
403 license would represent undue risk of financial loss to consumers,
404 considering the applicant's proposed business model.

405 (d) The commissioner may, in the commissioner's discretion, place
406 additional requirements, restrictions or conditions upon the license of
407 any applicant who will or may engage in the business of transmitting
408 monetary value in the form of virtual currency, including the amount
409 of surety bond required by section 36a-602, as amended by this act.

410 Sec. 8. Subsection (a) of section 36a-602 of the general statutes is
411 repealed and the following is substituted in lieu thereof (*Effective*
412 *October 1, 2015*):

413 (a) As a condition for the issuance and retention of the license,
414 applicants for a license and licensees shall file with the commissioner a
415 surety bond, the form of which shall be approved by the Attorney
416 General, issued by a bonding company or insurance company
417 authorized to do business in this state. The bond shall be conditioned
418 upon the licensee and the licensee's authorized delegates faithfully
419 performing all obligations with respect to the licensee's money
420 transmission business in this state and conducting such business in
421 this state consistent with the provisions of sections 36a-595 to 36a-612,
422 inclusive. The bond shall be in favor of the commissioner [,] and run
423 concurrently with the period of the license. [and] For applicants and
424 licensees who will not be engaged in the business of transmitting
425 monetary value in the form of virtual currency, such bond shall be in
426 the principal sum of not less than: (1) Three hundred thousand dollars
427 for any applicant and any licensee with an average weekly amount of
428 money transmissions in this state of less than three hundred thousand
429 dollars for the most recent twelve-month period ending June thirtieth,
430 (2) five hundred thousand dollars for any licensee with an average

431 weekly amount of money transmissions in this state equal to or greater
432 than three hundred thousand dollars but less than or equal to five
433 hundred thousand dollars for the most recent twelve-month period
434 ending June thirtieth, or (3) one million dollars for any licensee with an
435 average weekly amount of money transmissions in this state exceeding
436 five hundred thousand dollars for the most recent twelve-month
437 period ending June thirtieth. For purposes of this section, "money
438 transmissions" includes (A) money or monetary value received or
439 transmitted in this state, and (B) stored value and payment
440 instruments issued or sold in this state. For applicants and licensees
441 who will or may engage in the business of transmitting monetary
442 value in the form of virtual currency, such bond shall be in a principal
443 sum as determined by the commissioner and shall be calculated
444 reasonably to address the current and prospective volatility of the
445 market in such currency or currencies.

446 Sec. 9. Section 36a-701a of the general statutes is repealed and the
447 following is substituted in lieu thereof (*Effective from passage*):

448 (a) Any consumer may submit a written request, by certified mail or
449 such other secure method as authorized by a credit rating agency, to a
450 credit rating agency to place a security freeze on such consumer's
451 credit report. Such credit rating agency shall place a security freeze on
452 a consumer's credit report not later than five business days after
453 receipt of such request. Not later than ten business days after placing a
454 security freeze on a consumer's credit report, such credit rating agency
455 shall send a written confirmation of such security freeze to such
456 consumer that provides the consumer with a unique personal
457 identification number or password to be used by the consumer when
458 providing authorization for the release of such consumer's report to a
459 third party or for a period of time.

460 (b) In the event such consumer wishes to authorize the disclosure of
461 such consumer's credit report to a third party, or for a period of time,
462 while such security freeze is in effect, such consumer shall contact such
463 credit rating agency and provide: (1) Proper identification, (2) the

464 unique personal identification number or password described in
465 subsection (a) of this section, and (3) proper information regarding the
466 third party who is to receive the credit report or the time period for
467 which the credit report shall be available. Any credit rating agency that
468 receives a request from a consumer pursuant to this section shall lift
469 such security freeze not later than three business days after receipt of
470 such request.

471 (c) Except for the temporary lifting of a security freeze as provided
472 in subsection (b) of this section, any security freeze authorized
473 pursuant to the provisions of this section shall remain in effect until
474 such time as such consumer requests such security freeze to be
475 removed. A credit rating agency shall remove such security freeze not
476 later than three business days after receipt of such request provided
477 such consumer provides proper identification to such credit rating
478 agency and the unique personal identification number or password
479 described in subsection (a) of this section at the time of such request
480 for removal of the security freeze.

481 (d) Any credit rating agency may develop procedures to receive and
482 process such request from a consumer to temporarily lift or remove a
483 security freeze on a credit report pursuant to subsection (b) of this
484 section. Such procedures, at a minimum, shall include, but not be
485 limited to, the ability of a consumer to send such temporary lift or
486 removal request by electronic mail, letter or facsimile.

487 (e) In the event that a third party requests access to a consumer's
488 credit report that has such a security freeze in place and such third
489 party request is made in connection with an application for credit or
490 any other use and such consumer has not authorized the disclosure of
491 such consumer's credit report to such third party, such third party may
492 deem such credit application as incomplete.

493 (f) Any credit rating agency may refuse to implement or may
494 remove such security freeze if such agency believes, in good faith, that:
495 (1) The request for a security freeze was made as part of a fraud that
496 the consumer participated in, had knowledge of, or that can be

497 demonstrated by circumstantial evidence, or (2) the consumer credit
498 report was frozen due to a material misrepresentation of fact by the
499 consumer. In the event any such credit rating agency refuses to
500 implement or removes a security freeze pursuant to this subsection,
501 such credit rating agency shall promptly notify such consumer in
502 writing of such refusal not later than five business days after such
503 refusal or, in the case of a removal of a security freeze, prior to
504 removing the freeze on the consumer's credit report.

505 (g) Nothing in this section shall be construed to prohibit disclosure
506 of a consumer's credit report to: (1) A person, or the person's
507 subsidiary, affiliate, agent or assignee with which the consumer has or,
508 prior to assignment, had an account, contract or debtor-creditor
509 relationship for the purpose of reviewing the account or collecting the
510 financial obligation owing for the account, contract or debt; (2) a
511 subsidiary, affiliate, agent, assignee or prospective assignee of a person
512 to whom access has been granted under subsection (b) of this section
513 for the purpose of facilitating the extension of credit or other
514 permissible use; (3) any person acting pursuant to a court order,
515 warrant or subpoena; (4) any person for the purpose of using such
516 credit information to prescreen as provided by the federal Fair Credit
517 Reporting Act; (5) any person for the sole purpose of providing a credit
518 file monitoring subscription service to which the consumer has
519 subscribed; (6) a credit rating agency for the sole purpose of providing
520 a consumer with a copy of his or her credit report upon the consumer's
521 request; or (7) a federal, state or local governmental entity, including a
522 law enforcement agency, or court, or their agents or assignees
523 pursuant to their statutory or regulatory duties. For purposes of this
524 subsection, "reviewing the account" includes activities related to
525 account maintenance, monitoring, credit line increases and account
526 upgrades and enhancements.

527 (h) The following persons shall not be required to place a security
528 freeze on a consumer's credit report, provided such persons shall be
529 subject to any security freeze placed on a credit report by another
530 credit rating agency: (1) A check services or fraud prevention services

531 company that reports on incidents of fraud or issues authorizations for
532 the purpose of approving or processing negotiable instruments,
533 electronic fund transfers or similar methods of payment; (2) a deposit
534 account information service company that issues reports regarding
535 account closures due to fraud, substantial overdrafts, automated teller
536 machine abuse, or similar information regarding a consumer to
537 inquiring banks or other financial institutions for use only in reviewing
538 a consumer request for a deposit account at the inquiring bank or
539 financial institution; or (3) a credit rating agency that: (A) Acts only to
540 resell credit information by assembling and merging information
541 contained in a database of one or more credit reporting agencies; and
542 (B) does not maintain a permanent database of credit information from
543 which new credit reports are produced.

544 (i) [A] (1) Except as provided in subdivision (2) of this subsection, a
545 credit rating agency may charge a fee of not more than ten dollars to a
546 consumer for each security freeze, removal of such freeze or temporary
547 lift of such freeze for a period of time, and a fee of not more than
548 twelve dollars for a temporary lift of such freeze for a specific party.

549 (2) A credit rating agency shall not charge the fees authorized by
550 subdivision (1) of this subsection to: (A) A victim of identity theft who
551 has submitted a copy of a police report prepared pursuant to section
552 54-1n; (B) the spouse of any victim of identity theft; (C) a person sixty-
553 two years of age or older; (D) a person under eighteen years of age; (E)
554 a person for whom a guardian or conservator has been appointed by a
555 court; and (F) a victim of domestic violence, as defined in subdivision
556 (1) of subsection (a) of section 17b-112a, who has provided evidence of
557 such domestic violence as specified in subsection (b) of section 17b-
558 112a. No credit rating agency shall charge a fee to a consumer for a
559 replacement personal identification number when such replacement is
560 the first one requested by the consumer.

561 (j) An insurer, as defined in section 38a-1, may deny an application
562 for insurance if an applicant has placed a security freeze on such
563 applicant's credit report and fails to authorize the disclosure of such

564 applicant's credit report to such insurer pursuant to the provisions of
565 subsection (b) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-718
Sec. 2	<i>from passage</i>	36a-719c(c)
Sec. 3	<i>from passage</i>	36a-719d
Sec. 4	<i>from passage</i>	36a-573
Sec. 5	<i>October 1, 2015</i>	36a-596
Sec. 6	<i>October 1, 2015</i>	36a-598(a)
Sec. 7	<i>October 1, 2015</i>	36a-600
Sec. 8	<i>October 1, 2015</i>	36a-602(a)
Sec. 9	<i>from passage</i>	36a-701a

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Resources of the General Fund	GF - Potential Revenue Gain	less than \$5,000	less than \$5,000

Municipal Impact: None

Explanation

The bill make changes to the laws governing small loans that could result in additional penalties to the extent that violations occur. Any potential revenue from such violations is expected to be less than \$5,000.

The bill makes other clarifying and technical changes that have no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 6800

AN ACT CONCERNING MORTGAGE CORRESPONDENT LENDERS, THE SMALL LOAN ACT, VIRTUAL CURRENCIES AND SECURITY FREEZES ON CONSUMER CREDIT REPORTS.

SUMMARY:

This bill:

1. allows Connecticut-licensed mortgage correspondent lenders to act as mortgage servicers without obtaining a mortgage servicer license from the banking commissioner, under certain circumstances;
2. changes the fidelity bond and error and omissions coverages requirements for mortgage servicers;
3. voids a contract or other agreement involving interest, consideration, or charges that violates the laws governing small loans and makes other changes regarding violations of these laws;
4. requires an applicant for a money transmitter license to indicate whether the business will transmit virtual currency (such as Bitcoin), allows the commissioner to deny such a license if the proposed business model poses an undue risk of financial loss to consumers, and allows him to place additional requirements on such a license including requiring different surety bond amounts than for other money transmitters; and
5. prohibits credit reporting agencies from charging certain people (including identity theft victims) fees related to credit freezes.

EFFECTIVE DATE: Upon passage, except the provisions on virtual

currency are effective October 1, 2015.

§§ 1-3 — MORTGAGE SERVICERS

Correspondent Lenders Acting as Servicers

The law requires mortgage servicers, with some exceptions, to obtain a license from the banking commissioner. New licensing requirements took effect on January 1, 2015. The bill conforms the law to agency practice by allowing Connecticut-licensed mortgage correspondent lenders to act as mortgage servicers without obtaining a mortgage servicer license when they do so:

1. for residential mortgage loans they made,
2. during the loan's 90-day holding period, and
3. from a licensed main or branch office.

This exception does not apply while a person's correspondent lender license is suspended.

By law, Connecticut-licensed mortgage correspondent lenders are allowed to make residential mortgage loans in their names, the mortgages are funded by others under certain types of agreements, and the correspondent lenders can hold the loans for up to 90 days.

The bill requires these correspondent lenders to follow the law's requirements for mortgage servicers when they perform this role, including recordkeeping and disclosure requirements, complying with federal law and fee schedule restrictions, and avoiding prohibited acts. But the bill does not require them to meet the surety and fidelity bond and errors and omissions coverage requirements for mortgage servicers.

The law already allows most banks, their subsidiaries, and Connecticut-licensed mortgage lenders that meet the bond and errors and omissions coverage requirements to act as mortgage servicers without a license.

Fidelity Bonds and Insurance Coverage

The law requires mortgage servicers and mortgage lenders acting as mortgage servicers to have (1) a fidelity bond to cover losses from fraud, embezzlement, misplacement, forgery, and similar acts committed by their employees and (2) errors and omissions coverage for losses arising from negligence, errors, and omissions related to the payment of real estate taxes and special assessments, hazard and flood insurance, or maintaining mortgage and guaranty insurance.

The law sets the fidelity bond and errors and omissions coverage amounts based on the mortgage servicer's volume of servicing activity most recently reported to the commissioner. The bill allows the servicer to have more coverage than the amounts currently required, which are as follows:

1. \$300,000 if the amount of the residential mortgage loans serviced is \$100 million or less or
2. if the loan amount exceeds \$100 million, the principal amount must be \$300,000 plus (a) 0.15% of the amount of residential mortgage loans serviced between \$100 million and \$500 million, (b) 0.125% of the amount of such loans serviced from \$500 million to \$1 billion, and (c) 0.1% of the amount of such loans serviced above \$1 billion.

Currently, the fidelity bond and errors and omissions coverage may include a deductible of up to \$100,000 or 5% of the principal. The bill instead caps the deductible at \$100,000 or 5% of the face amount of the bond or coverage.

§ 4 — SMALL LOANS

The law prohibits anyone, unless authorized under the small loan lender laws, from directly or indirectly charging, contracting for, or receiving any interest, charge, or consideration greater than 12% annually on the loan, use, or forbearance of money or credit on the amount or value up to \$15,000. The law prohibits enforcing in Connecticut any loan with an interest rate or charge greater than

allowed under these provisions.

The bill also makes a contract of loan, use, or forbearance of money or credit void if it charges, contracts for, or someone receives interest, consideration, or charges beyond what the law permits. It prohibits anyone from collecting or receiving the principal, interest, charges, or consideration on such a contract. It also prohibits anyone from directly or indirectly assisting another person in prohibited conduct regarding small loans.

Anyone who violates the bill's provisions is subject to the commissioner's authority to (1) investigate suspected violations of the small loan requirements and (2) take various actions including suspending, revoking, or refusing to renew a person's license; issuing a cease and desist order; imposing civil penalties; and requiring restitution.

§§ 5-8 — VIRTUAL CURRENCY AND MONEY TRANSMISSION

Generally, the Money Transmission Act regulates businesses, other than banks, that receive and transmit money. It requires these businesses to be licensed, imposes financial conditions on them, and subjects them to Banking Department oversight.

As part of the initial application or license renewal process, the bill requires a person to indicate whether his or her money transmission business will include transmitting monetary value in the form of virtual currency.

The bill allows the commissioner to deny a money transmission license to an otherwise qualified applicant who will or may engage in business involving virtual currency if the commissioner believes it would be an undue risk of financial loss to consumers, considering the applicant's proposed business model. By law, the commissioner can deny a license if certain individuals associated with the business have certain criminal convictions or are listed on certain U.S. Treasury Department lists.

Licenses Restrictions and Bond Requirements

The bill allows the commissioner to place additional requirements, restrictions, or conditions on the license of an applicant involved with virtual currency. This can include imposing different surety bond requirements than ordinarily apply to money transmitters, if a money transmitter will or may engage in transmissions involving virtual currency. Any amount imposed must reasonably address the current and prospective volatility of the market in virtual currencies.

By law, transmitters post these bonds for the faithful performance of their obligations and to ensure they conduct business according to law. Table 1 shows the bond requirements currently imposed on money transmitters.

Table 1: Bond Requirements for Money Transmitters

<i>Average weekly amount of money transmitted in the state for year ending June 30</i>	<i>Amount of Bond</i>
Less than \$300,000	\$300,000
\$300,000 to \$500,000	\$500,000
More than \$500,000	\$1 million

By law, a money transmitter may replace some or all of the bond requirement with specified investments, but the total amount of investments and bonds must equal the bond limits described above.

Virtual Currency Defined

Under the bill, virtual currency is a digital unit (1) used as a medium of exchange or form of digitally stored value or (2) incorporated into payment system technology. It includes digital units of exchange that:

1. have a centralized repository or administrator,
2. are decentralized without a centralized repository or administrator, or
3. may be created or obtained by computer or manufacturing

effort.

Under the bill, virtual currency does not include digital units used:

1. solely in online gaming platforms with no other market or application or
2. exclusively in a consumer affinity or rewards program that can be used only as payment for purchases with the issuer or another designated merchant and cannot be converted into or redeemed for fiat currency (government-backed currency, such as the U.S. dollar).

§ 9 — SECURITY FREEZES ON CREDIT REPORTS

The law allows a consumer to request that a credit rating agency place a security freeze on his or her credit report. A freeze prohibits the agency from releasing information in the credit report without the consumer's express authorization.

The bill prohibits credit rating agencies from charging the fees that would otherwise apply for placing a security freeze on a person's credit report, removing the freeze, or temporarily lifting one (up to \$10) or temporarily lifting the freeze for a specific party (up to \$12) to the following people:

1. an identity theft victim who submits a copy of a police report,
2. the spouse of an identity theft victim,
3. anyone under age 18 or at least age 62,
4. anyone who has a court-appointed guardian or conservator, or
5. a person who provides evidence that he or she is a domestic violence victim (evidence may include police, government, or court records; documents from people the victim sought assistance from such as shelter workers or medical or legal professionals; or a statement from someone who knows the

circumstances of the violence).

The bill prohibits credit reporting agencies from charging a fee the first time a consumer requests a replacement identification number. By law, after placing a security freeze, credit reporting agencies give consumers an identification number which must be used when the consumer wants to release his or her report to a third party, release the report for a period of time, or remove the freeze.

BACKGROUND

Related Bill

HB 6403 (File 113), favorably reported by the Banking Committee, allows a minor's parent or legal guardian to place a security freeze on the minor's credit report.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/05/2015)